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EXAMINER

HENRY, MARIEGEORGES A

ART UNIT

PAPER NUMBER

2455

NOTIFICATION DATE

DELIVERY MODE

10/26/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/573,734	Applicant(s) TRICAUD, LAURENT	
	Examiner MARIE GEORGES HENRY	Art Unit 2455	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1-19 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1-19 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 28 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. This is in response to the communication filed on 8/5/2011. Claims 1-19 are pending. Claims 1-19 directed to a method of playing a multimedia content transmitted by a third-party on a user device.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8 and 10-18 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Joseph** et al. (hereinafter "Joseph") (**US 6, 993, 645 B2**) in view of **Krishnamoorthy** et al. (hereinafter "Krishnamoorthy") (**US 5, 790, 753**).

Regarding claim 1, Joseph discloses a user device comprising: a network interface configured for communicating via a network external to the user device, and a processor arrangement configured for executing, each of: a boot module configured for booting the user device (Joseph, column 3, lines 10-14, a booting device is disclosed),

a receive module configured for transmitting, to a third-party device, a request for multimedia over the network, receiving (Joseph, column 4, lines 13-19, fig.2, a content player is disclosed receiving content from a persistent storage medium), and storing the received multimedia content in a content memory of the user device

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(Joseph, column 4, lines 55-61, a content player is displaying media content that was stored in an initializing memory), and

a content player module configured for playing multimedia content transmitted by said third-party device (Joseph, column 4, lines 55-58, a content player is displaying content during booting), while the boot module continues to boot the user device (Joseph, column 4, lines 55-58, a content player is displaying content during booting).

Although Joseph discloses the feature of downloading a multimedia content, he does not disclose explicitly the feature from the third-party device and while the boot module continues to boot the user device, multimedia content via said network. Krishnamoorthy discloses that application software is downloaded using a boot program by an operating system (Krishnamoorthy, column 5, lines 56-60).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement Krishnamoorthy software downloading feature into Joseph transmitting multimedia content with a booting system in order to create a transmitting multimedia content with a booting system with a software downloading feature in order to connect a device to the repository during the boot because of the advantage of immediate tailored updates (Joseph, col. 6 lines 63-67).

Regarding claim 2, Joseph and Krishnamoorthy disclose a user device as claimed in claim 1 further comprising a memory for storing multimedia content (Joseph, column 3, lines 51-56, a flash ROM is storing content), wherein: a) said receive module is further configured for:

transmitting a first request asking whether said third-party device has multimedia content to download to said user device (Joseph, column 4, lines 43-44, an interactive electronic device allows a user to perform downloading of selective screen displays from a content repository),

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receiving a response to said first request, sending a second request, depending at least on said response, said second request configured to contact a Common Gateway Interface (CGI) script hosted by the third-party device to ask for the download of multimedia content (Joseph, column4, lines 43-44, fig. 2, an interactive electronic device allows a user to perform selective screen displays, a content repository where content is fetched, and a network interface transmits requests),

receiving the requested multimedia content (Joseph, column4, lines 43- 44, an interactive electronic device receives request from a user), and storing the received content in said memory (Joseph, column 4, lines 60- 61, an initializing memory is storing video files), and b) the content player module is further configured for playing other multimedia content stored in said memory prior to downloading the multimedia content (Joseph, column 4, lines 55-61, a content player is displaying media content that was stored in an initializing memory).

Regarding claim 3, Joseph and Krishnamoorthy disclose a user device as claimed in claim 1 wherein: a) said receive module is further configured for transmitting a request asking for the streaming of multimedia content, and receiving multimedia content streamed by said third-party device in response to said request (Joseph, column4, lines 43-44, an interactive electronic device receives request from a user), and b) the content player is further configured for playing the streamed multimedia content as it is received (Joseph, column 4, lines 55-58, a content player is displaying content during booting).

Regarding claim 4, Joseph and Krishnamoorthy disclose a user device as claimed in claim 3 wherein the content player is further configured to stop playing in response to said booting finishing (Joseph, column 5, lines 19-20, the BIOS ends the boot sequence by halting the content player).

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Regarding claim 5, Joseph discloses a method of playing a content on a user device that communicates via a network, said method comprising implementing, in parallel, each of the steps of: booting said user device (Joseph, column 3, lines 10-14, a booting devise is disclosed), and playing, while allowing the booting of the user device to continue, multimedia content received from said third-party device (Joseph, column 4, lines 55-58, a content player is displaying content during booting), accessing multimedia content stored by from a third-party device said by receiving (Joseph, column 6, lines 9-10, fig.2, content is received from a content repositories into a content player).

Although Joseph discloses the feature of downloading a multimedia content, he does not disclose explicitly the feature while allowing the booting of the user device to continue, data from the third-party device that has been transmitted to the user device via said network. Krishnamoorthy discloses the application software is downloaded using a boot program by an operating system (Krishnamoorthy, column 5, lines 56-60).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement Krishnamoorthy software downloading feature into Joseph transmitting multimedia content with a booting method in order to create a transmitting multimedia content with a booting method with a software downloading feature in order to connect a device to the repository during the boot because of the advantage of immediate tailored updates (Joseph, col. 6 lines 63-67).

Regarding claim 6, Joseph and Krishnamoorthy disclose a method as claimed in claim 5 of playing a multimedia content on a user device which comprises a memory for storing multimedia content, wherein a) said receiving step includes protocol-implementing steps of: transmitting a first request from said user device, said first request asking whether said third-party device has new multimedia content to download to said user device, transmitting a response to said user device, at least if said third-party device has new multimedia content to download (Joseph, column 4, lines 43-44, fig. 2, an interactive

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electronic device allows a user to perform selective screen displays, a content repository where content is fetched, and a network interface transmits requests),

transmitting a second request from said user device depending at least on said response and on one or more predefined criterion including at least one of a network load criteria and an available memory criteria, said second request asking for the download of said new multimedia content, downloading said new multimedia content from said third-party device to said user device (Joseph, column4, lines 43-44, fig. 2, an interactive electronic device allows a user to perform selective screen displays, a content repository where content is fetched, and a network interface transmits requests), and

storing the downloaded multimedia content in said memory (Joseph, column 3, lines 51-56, a flash ROM is storing content), and b) said playing step includes playing multimedia content stored in said memory prior to said downloading (Joseph, column 4, lines 55-58, a content player is displaying content during booting).

Regarding claim 7, Joseph and Krishnamoorthy disclose a method as claimed in claim 5 of playing multimedia content on a user device, wherein:

a) said step of receiving includes protocol-implementation steps of: transmitting a request from said user device, said request asking for the streaming of multimedia content, and streaming multimedia content from said third- party device to said user device in response to said request (Joseph, column 4, lines 43-44, fig. 2, an interactive electronic device allows a user to perform selective screen displays, a content repository where content is fetched, and a network interface transmits requests), and

b) said playing step includes playing the streamed multimedia content on said user device as it is received (Joseph, column 4, lines 55-58, a content player is displaying

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content during booting).

Regarding claim 8, Joseph and Krishnamoorthy disclose a method of playing multimedia content as claimed in claim 5, wherein the received multimedia content is customized by said third-party (Joseph, column 6, lines 32-35, the retrieval of the data is done according to pre-defined parameters).

Regarding claim 10, Joseph discloses a third-party device for communicating via a network and for implementing a protocol for transmitting multimedia content to a user device via said network, comprising:

a receiver configured for receiving a first request sent by said user device during booting of the user device (Joseph, column 4, lines 43-44, fig. 2, an interactive electronic device allows a user to perform selective screen displays, a content repository where content is fetched, and a network interface transmits requests), and

a transmitter for transmitting a response to said user device, at least if said third-party device has multimedia content to download to said user device, and for uploading multimedia content to said user device upon reception of said second request (Joseph, column 4, lines 43-44, fig. 2, an interactive electronic device allows a user to perform selective screen displays, a content repository where content is fetched, and a network interface transmits requests).

Although Joseph discloses the feature of downloading a multimedia content, he does not disclose explicitly the feature said first request asking whether said third-party device has a multimedia content to download to said user device and for receiving a second request sent by said user device during booting of the user device, the second request asking for the download of a multimedia content. Krishnamoorthy discloses the application software is downloaded using a boot program by an operating system (Krishnamoorthy, column 5, lines 56-60).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement Krishnamoorthy software downloading feature into Joseph transmitting multimedia content with a booting system in order to create a transmitting multimedia content with a booting system with a software downloading feature in order to connect a device to the repository during the boot because of the advantage of immediate tailored updates (Joseph, col. 6 lines 63-67).

Regarding claim 11, Joseph discloses a system comprising:

at least a user device that while booting, initiates implementation of a communications protocol (Joseph, column 3, lines 10-14, a user device is initiated while booting device) and plays multimedia content (Joseph, column 4, lines 55-58, a content player is displaying content during booting), and,

while the user device is booting, transmits multimedia content to the user device, the third-party device using a network over which the communication and transmitting occurs (Joseph, column 4, lines 43-44, fig. 2, an interactive electronic device allows a user to perform selective screen displays, a content repository where content is fetched, and a network interface transmits requests).

Although Joseph discloses the feature of downloading a multimedia content, he does not disclose explicitly a third-party device that, while the user device is booting, communicates with the user device during booting using the communications protocol. Krishnamoorthy discloses application software is downloaded using a boot program by an operating system (Krishnamoorthy, column 5, lines 56-60).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement Krishnamoorthy software downloading feature into Joseph transmitting multimedia content with a booting system in order to create a

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transmitting multimedia content with a booting system with a software downloading feature in order to connect a device to the repository during the boot because of the advantage of immediate tailored updates (Joseph, col. 6 lines 63-67).

Regarding claim 12, Joseph and Krishnamoorthy disclose a computer readable medium storing program comprising instructions for implementing a method as claimed in claim 5, when executed by a microprocessor of a user device (Joseph, column 3, lines 10-14, a computer is performing sequences of booting instruction).

Regarding claim 13, Joseph and Krishnamoorthy disclose the user device of claim 1, wherein the processor arrangement is further configured for booting by executing an initial set of operations in response to a user turning on power to the user device (Joseph, column 3, lines 22-24, a device is responding to a user queries posed during a boot sequences).

Regarding claim 14, Joseph and Krishnamoorthy disclose the method of claim 5, wherein the step of booting further includes executing an initial set of operations in response to a user turning on power to the user device (Joseph, column 3, lines 22-24, a device is responding to a user queries posed during a boot sequences).

Regarding claim 15, Joseph and Krishnamoorthy disclose the third-party device of claim 10, wherein the receiver is further configured to receive a first request while the user device is booting by executing an initial set of operations in response to a user turning on power to the user device (Joseph, column 3, lines 22-24, a device is responding to a user queries posed during a boot sequences).

Regarding claim 16, Joseph and Krishnamoorthy disclose the system of claim 11, wherein booting the user device includes executing an initial set of operations in response to a user turning on power to the user device (Joseph, column 3, lines 22-24,

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a device is responding to a user posed queries posed during a boot sequences).

Regarding claim 18, Joseph and Krishnamoorthy disclose the user device of claim 2, wherein the sending of a second request is conditional upon pre-defined criteria that includes one or more of network load and available memory size (Joseph, column 4, lines 7-10, memory is been check in the booting process).

3. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Joseph**, in view of **Krishnamoorthy**, and further in view of **Hadi (US 7, 233, 999 B2)**.

Regarding claim 17, Joseph and Krishnamoorthy disclose the user device of claim 1.

Although Joseph and Krishnamoorthy disclose the feature of downloading a multimedia content, he does not disclose explicitly the feature wherein the user device is a mobile phone and the request for multimedia content over the network includes a request to a Wireless Application Protocol (WAP) server.

Hadi discloses the feature wherein the user device is a mobile phone and the request for multimedia content over the network includes a request to a Wireless Application Protocol (WAP) server (Hadi, column 14, lines 29-32, wireless features are disclosed).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement Krishnamoorthy software downloading feature and Hadi wireless feature into Joseph transmitting multimedia content with a booting system in order to create a transmitting multimedia content with a booting system with a software downloading feature and a wireless feature in order to connect a device to the repository during the boot because of the advantage of immediate tailored updates (Joseph, col. 6 lines 63-67) and to download software in a device without a physical connection.

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4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Joseph**, in view of **Krishnamoorthy**, and further in view of in view of **Perlman** et al (hereinafter "Perlman ") (**US 7, 200, 859 B1**).

Regarding claim 9, Joseph and Krishnamoorthy disclose a method of playing multimedia content as claimed in claim 5.

Although Joseph and Krishnamoorthy disclose a method of downloading a multimedia content, he does not disclose the method wherein the received multimedia content is compressed. Perlman discloses the method wherein the received multimedia content is compressed (Perlman, column 4, lines 28-31, data is transfer before being transferred).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement Krishnamoorthy software downloading feature and Perlman compressing feature into Joseph transmitting multimedia content with a booting method in order to create a transmitting multimedia content with a booting method with a software downloading feature and with a compressing feature in order to connect a device to the repository during the boot because of the advantage of immediate tailored updates (Joseph, col. 6 lines 63-67) and to be able to transmit larger multimedia data.

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Joseph**, in view of **Krishnamoorthy**, in further in view of in view of **Worley** (hereinafter "Worley ") (**US 7, 509, 639 B2**).

Regarding claim 19, Joseph and Krishnamoorthy disclose the user device of claim 3.

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Although Joseph and Krishnamoorthy disclose a feature of downloading a multimedia content, he does not disclose the feature wherein receiving multimedia content streamed by said third-party device includes using real-time-streaming protocol. Worley discloses the feature wherein receiving multimedia content streamed by said third-party device includes using real-time-streaming protocol (Worley, column 10, lines 40-41, RTSP protocol is disclosed).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement Krishnamoorthy software downloading feature and Worley RTSP feature into Joseph transmitting multimedia content with a booting system in order to create a transmitting multimedia content with a booting system with a software downloading feature in order to connect a device to the repository during the boot because of the advantage of immediate tailored updates (Joseph, col. 6 lines 63-67) and to compare streaming packets while downloading multimedia content.

Response to Argument

6. The argument raised in the response filed on August 5, 2011 will be summarized and addressed as followed:

Applicant argues in substance that: A) prior art does not disclose “a user device that retrieves multimedia content from a third party device while the user device is booting” in independent claims 1, 5, 10, and 11 (Remark, page 7, lines 19-21; page 8, lines 3-4, page 8, lines 12-15).

In response to A;

(8) In one embodiment of the present invention, a method is provided for **delivering, retrieving and displaying content to a user of a computer system during the POST phase of a BIOS start-up sequence.** The POST is interrupted long enough to retrieve and display content to a user. The content is then displayed to the user, in lieu of the

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usual display of technical information, for the remainder of the POST. The content is retrieved from a designated persistent storage medium location. Following the completion of the POST and the loading of an operating system into memory, the content is updated by retrieving new content and transferring it to a designated persistent storage medium storage location. The retrieval and transfer of the updated content occurs when CPU usage is low, and/or the connection between the computer system and the updated content location is determined to have enough bandwidth to allow the transfer. (Joseph, column 2, lines 4-19)

10) Referring now to FIG. 2, the ROM 19 provides storage for a Basic Input Output System (BIOS) 30 and a content player 32. The BIOS 30 is responsible for initiating the operation of the electronic device 10. It performs checks of the hardware, including a POST. The POST checks the hardware of the electronic device 10 such as the keyboard, power supply, system board, system memory, memory modules, controllers, graphics system, diskette drives and hard drives and displays error messages in the event of a problem. Following the POST, the BIOS 30 is responsible for loading pieces of the operating system 15 into RAM 22. The persistent storage medium 20 provides storage for a content-fetcher 34. The content-player 32 and the content-fetcher 34, both of which are typically implemented as a sequence of instructions stored on a medium, cooperate to provide for the **delivery of programmable content to the user of the electronic device 10 during the boot sequence**. It should be noted that in alternate embodiments, the content-player 32 is stored in the persistent storage medium 20 instead of in ROM 19. (Joseph, column 4, lines 3-22)

(20) The content that is delivered to a user may also be tailored to the requesting user. In one embodiment, **the content fetcher 34 includes a user ID with the request** by the data poller 58 to the content repository 62. The content repository 62 responds with content selected to appeal to the user. (Joseph, column 6, lines 63-67)

(21) Following receipt of the signal indicating completion of the polling event, the run-time controller 60 provides the content retrieved by the data poller 58 **to the disk-storage**

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utility 56 (step 74). The disk-storage utility 56 then stores the retrieved content at a predefined location on the persistent storage medium 20 (step 76) for retrieval and display by the content player 32. In this manner, the content fetcher 34 and the content player 32 cooperate to provide updateable content for delivery during the boot sequence. (Joseph, column 7, lines 1-9)

As can be seen from the above passage, Joseph discloses a programmable content to the user of the electronic device 10 during the boot sequence, a disk storage utility equates to a third party device, and a content request is disclosed having a user ID; therefore, Joseph's prior art feature disclosed meets the claim limitations.

Applicant argues in substance that: B) prior art does not disclose "the 35 U.S.C. § 103(a) rejections of claims because the Office Action has not specified any proper articulated reason for the proposed modification as suggested by the references" in independent claims 1 and 8. (Remark, page 8, lines 18-20)

In response to B;

(24) In a preferred embodiment of the invention, initial downloading application software 810, O/S software 820, and protocol stacks 830 and 840 are stored in the ROM 715 for immediate **execution as a "boot" program by the processor 710** of FIG. 7. (Krishnamoorthy, column 5, lines 56-60)

As can be seen from the above passage, Krishnamoorthy is in the field of booting a processor; Hadi is relating to wireless that is the field of transferring data; Perlman related to compress data is in the field of transferring data; therefore, the combination of Joseph with Krishnamoorthy's prior art feature, with Hadi's prior art feature, or with Perlman's prior art feature meets the claims limitation and is proper.

C. Trivoli Provisioning Manager document received on February 2011 has being acknowledged as booting related document.

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Conclusion

7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication from the examiner should be directed to **Marie Georges Henry whose telephone number is (571) 270-3226**. The examiner can normally be reached on Monday to Friday 7:30am - 4:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217- 9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marie Georges Henry/

Examiner, Art Unit 2455

/EMMANUEL L. MOISE/

Supervisory Patent Examiner, Art Unit 2455